

ATTACHMENT A

Schedule for Payment of Senior Judges Who Serve as Special Judges

And

Senior Judges Who Serve as Mediators

This Schedule shall take effect August 1, 2005.

Pursuant to Administrative Rule 5(A)(1), senior judges who serve as special judges are to be paid in accordance with a Schedule published by the Executive Director of the Indiana Supreme Court Division of State Court Administration.

The Trial Rules and Administrative Rules contain four sections which relate to the payment of senior judges who serve as special judges. They are:

1. Trial Rule 79(J), which qualifies a senior judge to serve as a special judge pursuant to local rule;
2. Administrative Rule 5(A)(1), which prohibits a senior judge from collecting special judge pay on the same day he serves as a senior judge;
3. Administrative Rule 5(B)(3)(e), which provides that a former judge serving as a senior judge must retain his/her pre-retirement special judge cases, without senior judge credit, unless specifically approved by the Supreme Court; and
4. Administrative Rule 5(A)(1), which provides that a senior judge who serves as special judges shall be paid in accordance with a Schedule published by the Executive Director of State Court Administration.

The foregoing rules treat a senior judge who has special judge cases in two ways, depending on whether the senior judge acquired jurisdiction of the special judge cases before or after retirement.

In light of the foregoing provisions, the Executive Director, Lilia Judson, now submits this Schedule, in a question and answer format, to the Supreme Court for its approval.

I. Payment Schedule for Senior Judges Who Serve as Special Judges

A. How will a senior judge who hears a “pre-retirement” special judge case be compensated?

If the special judge case predates the senior judge’s retirement, the senior judge retains the case as special judge [Admin. R. 5(B)(3)(e)] and receives no senior judge credit for his/her post-retirement service (except when specifically requested of and approved by the Supreme Court). The senior judge will receive compensation for this service only as a special judge.

However, if the “pre-retirement” special judge case comes before the senior judge on a day the senior judge is serving as a senior judge on other matters assigned by the trial court, the senior judge could claim senior judge pay and credit for that day of service, but not special judge pay. Admin. R. 5(A)(1).

B. How will a senior judge who hears a “post-retirement” special judge case be compensated?

A senior judge who hears a special judge case which he/she received after retiring, may claim senior judge pay and credit for the case under Admin.R. 5(B)(6). Such “post retirement” special judge cases will be treated the same as other senior judge work and “a senior judge who serves substantially shorter time than the daily calendar of the court where the judge is serving may, with the permission of the Executive Director, accumulate and consolidate such service times into a day’s credit.”

C. How will senior judge days be counted by the court in which a senior judge hears special judge cases?

If the senior judge claims senior judge pay and/or credit time while serving on special judge cases in a particular court, that time will be counted toward that court’s senior judge day allotment.

D. How will a senior judge be compensated when he/she serves as a special judge in a court in which he/she is not appointed as a senior judge?

A senior judge who serves as a special judge in a court in which he/she is not appointed as a senior judge cannot receive senior judge pay or senior judge credit for service in that court. He/she can only receive special judge pay.

E. May a senior judge claim service time and/or per diem for traveling to and from a court where he/she serves?

No. A senior judge may claim credit only for actual time served in a court.

F. May a senior judge claim service time and/or per diem for scheduled senior judge service which is canceled through no fault of the senior judge?

No. A senior judge may claim credit only for actual time served in a court.

II. Schedule for Payment of Senior Judges Serving as Mediators.

Indiana Code 33-23-3-3 provides that senior judges may serve as domestic relations mediators but they cannot receive compensation from the alternative dispute resolution fund under IC 33-23-6. Administrative Rule 5(B)(9) further provides that a senior judge who is also a registered mediator and serves as a mediator in a court-ordered mediation pursuant to IC 33-23-3-3, or on a pro bono basis, may receive senior judge service credit for said mediation service provided that, the senior judge is not compensated at a rate greater than the per diem rate for senior judges.

In light of the foregoing, the Executive Director, Lilia Judson, now submits this Schedule, in question and answer format, for Supreme Court approval.

1. Can a senior judge who mediates pro bono for a court in which he also practices law receive senior judge credit for the mediation?

No. In order to serve as a senior judge, a person must be appointed by the Supreme Court as a senior judge in a particular court. The senior judge cannot be appointed as a senior judge in any court in which the judge practices law.

2. Can a senior judge receive senior judge credit for service as a mediator in a court in which he has not been appointed to serve as a senior judge by the Supreme Court?

No. A senior judge must be appointed to a particular court in order to receive credit and/or per diem for senior judge service in that court.